

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

Claims 1-16 and 19-23 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,556,217 to Makipaa et al. (hereinafter “Makipaa”) in view of U.S. Patent No. 6,826,173 to Kung et al. (hereinafter “Kung”). Applicant respectfully traverses the rejection for at least the following reasons.

Applicant notes that Makipaa was granted on July 4, 2002, after the filing date of the present application. Accordingly, Makipaa is a prior art reference under 35 U.S.C. § 102(e). Further, Applicant notes that Makipaa was owned by the assignee of the present application at the time of the present invention was made. Specifically, Nokia Corporation is the owner of the entire right, title, and interest in and to Makipaa by virtue of an Assignment filed and recorded on October 17, 2000, on Reel/Frame 011258/0564, and Nokia Corporation is the owner of the entire right, title, and interest in and to the present claimed invention by virtue of an Assignment filed and recorded on May 21, 2002, on Reel/Frame 012932/0238.

Prior art under subsection (e) of 35 U.S.C. § 102 “shall not preclude patentability” where the reference and the claimed invention “were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Accordingly, Applicant respectfully requests that Makipaa cannot be relied upon for rejection of the pending claims.

Further, Kung fails to teach or suggest each feature of the pending claims.

In order to establish a *prima facie* case of obviousness, “... the prior art reference (or references when combined) must teach or suggest all the claim limitations.” See M.P.E.P. § 2142, ¶1 (emphasis added). Since Makipaa may not be relied upon, and since Kung fails to teach or suggest each feature of the pending claims, the Office Action fails to establish a *prima facie* case of obviousness.

Accordingly, claims 1-16 and 19-23 are patentable.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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